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BEFORE THE ARIZONA CORPORATION COMMISSION

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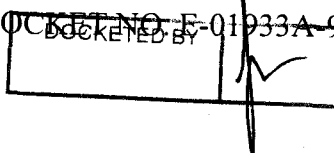
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JIM IRVIN
COMMISSIONER
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COMMISSIONER

ARIZONA CORPORATION COMMISSION
Ariz. Corp. Commission
DOCKETED

DEC 20 1999

IN THE MATTER OF THE APPLICATION
OF TUCSON ELECTRIC POWER
COMPANY FOR APPROVAL OF ITS
PLAN FOR STRANDED COST
RECOVERY.

DOCKET NO. E-01933A-98-0471



IN THE MATTER OF THE FILING OF
TUCSON ELECTRIC POWER COMPANY
OF UNBUNDLED TARIFFS PURSUANT
TO A.A.C. R14-2-1601 *ET SEQ.*

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF COMPETITION IN
THE PROVISION OF ELECTRIC
SERVICES THROUGHOUT THE STATE
OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

APPLICATION FOR REHEARING

Pursuant to A.R.S. § 40-253, the Arizona Consumers Council applies for rehearing of
Decision No. 62103 in this matter on the following grounds:

1. In its Decision, the Arizona Corporation Commission has approved a
comprehensive settlement among various parties to resolve numerous issues, including stranded
costs and unbundled tariffs. A major component of the Settlement Agreement is a rate reduction
of one percent for each of the next two years. The Commission approved these rate reductions
without any financial examination of the revenues, expenses or financial condition of Tucson
Electric Power Company ("TEP"). There is no basis upon which the Commission could
conclude that the approved rates are just and reasonable. As a result, the Commission's approval

1 of the rate changes required by the Settlement Agreement, including the recovery of stranded
2 costs, violates the Commission's constitutional duty to establish just and reasonable rates as
3 prescribed in Article 15, section 3 of the Arizona Constitution.

4 2. The Commission's approval of the Settlement Agreement and the rate changes
5 contained therein violate Article 15, section 14 of the Arizona Constitution because the rates
6 established by the Commission are not based on the fair value of TEP's property. Instead, the
7 Commission simply accepted the Settlement Agreement presented by the parties and the rates
8 that were proposed in the Agreement.

9 3. Section 13.4 of the Settlement Agreement prohibits the Commission from
10 changing rates until December 31, 2008 absent an emergency or a change in laws or regulatory
11 requirements. The provision is unlawful because it prevents the Commission from performing
12 its statutory and constitutional duties to prescribe rates that are just and reasonable under the
13 Arizona Constitution.

14 4. The Commission's approval of TEP's transfer to an affiliate of its competitive
15 electric service assets is unjust and unreasonable without a corresponding change to TEP's rate
16 base at the time of the transfer. According to the terms of the Settlement Agreement, the transfer
17 is to occur on or before December 31, 2002. However, the rates established by the Decision and
18 the Settlement Agreement will remain in effect until December 31, 2008. For the six years after
19 transfer of the competitive assets, TEP ratepayers will be paying a return on property that is no
20 longer owned by TEP or dedicated to the provision of regulated service.

21 Likewise, the Commission's Decision is unjust and unreasonable because it fails
22 to reflect the fact that TEP's rate base is reduced as stranded costs are recovered pursuant to the
23 terms of the Settlement Agreement and the Decision.
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1 As a result of the foregoing, TEP customers will be paying rates that are unjust
2 and unreasonable because they do not reflect the substantial reductions to TEP's rate base that
3 will occur during the term of the Settlement Agreement.

4 5. The Commission's Decision does not contain a finding that the rates approved by
5 the Commission as part of the Settlement Agreement are just and reasonable. The Commission
6 lacks the authority to approve new rates without finding that they are just and reasonable.

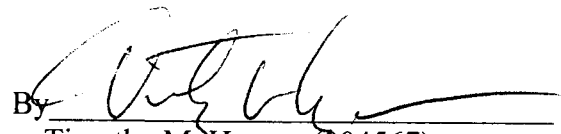
7 6. By its approval of the Settlement Agreement, and pursuant to section 13.3, the
8 Commission has become a party to the Settlement Agreement and is fully bound by its
9 provisions. Pursuant to section 14.2, the Commission is prohibited from taking or proposing any
10 action which would be inconsistent with the provisions of the Settlement Agreement. The
11 Commission lacks the authority to make such an agreement. Moreover, such an agreement
12 violates the Commission's constitutional duty in Article 15, section 3 of the Arizona
13 Constitution. The Commission's agreement to become a party to the Settlement Agreement is
14 also contrary to public policy and therefore void.

15 7. There is no evidence to support Finding of Fact Nos. 30, 32, 34 and 43.

16 8. Conclusion of Law No. 4 is erroneous and unlawful.

17 RESPECTFULLY SUBMITTED this 20th day of December, 1999.

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19 IN THE PUBLIC INTEREST

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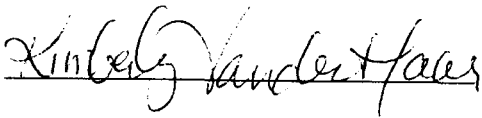
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Center/TEP Settlement/Application for Rehearing